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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,486	01/14/2002	Jakob Schmitt	SCHMITT-13	4006

20151 7590 05/24/2004

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NEW YORK, NY 10118

EXAMINER
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COZART, JERMIE E

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/047,486

Applicant(s)

SCHMITT, JAKOB

Examiner

Jermie Cozart

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-8 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 14, 2004 has been entered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the step of press-fitting the holding member about the rod-shaped part to permanently connect the holding member to the rod-shaped part, wherein the press-fitting step includes a first pressing operation at one position of the holding member so that the holding member assumes a non-round configuration, and a second operation at a position offset to the one position by 90° to conform to the cross section of the rod-shaped part, and the rod being threaded must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 09273266A in view of Crossingham et al. (6,042,891).

JP`266 discloses securing a rod-shaped part (5) in a surrounding holding member (1), wherein the holding member has opposite side edges formed with elements (2, 3) configured for interlocking engagement, and is shaped into a cross-section in accordance to a cross section of the rod-shaped part (5). The rod-shaped part is inserted into the holding member (1), and the holding member (1) is press-fitted about the rod-shaped part to permanently connect the holding member to the rod-shaped part. Since JP`266 discloses the use of a crimping tool having crimping dies (7, 8), it is apparent that during the pressing step the holding member and rod can be oriented in a first direction to perform a first pressing operation so that the holding member assumes a non-round configuration, and that the holding member and rod can then be subjected to a second pressing operation at a position offset to the one position by 90° through rotation of the holding member and rod within the crimping tool to conform the holding member to the cross section of the rod shaped part thereby interlocking the elements on the opposite side edges of the holding member. The rod shaped part (5) has a radial profile, circular cross section, and a thread (protrusion

along rod 5 in fig. 2 can be considered a thread) which makes the rod essentially a threaded rod. *See abstract and figures 1-3 for further clarification.*

JP`266, however, does not disclose the bending step and the shaping step being implemented by a roll forming operation, fabricating a flat holding member, or bending the side edges of the holding member upwards.

Crossingham discloses fabricating a flat holding member, bending the side edges upward wherein bending and shaping are implemented by a roll forming operation, in order to avoid excessive damage to the outer surface of the member. *See column 2, line 48 – column 4, line 20 for further clarification.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to fabricate the holding member of JP`266 from a flat configuration by the bending the side edges upward and shaping the member into the desired configuration using a roll forming operation, in light of the teachings of Crossingham, in order to avoid excessive damage to the outer surface of the member.

#### ***Allowable Subject Matter***

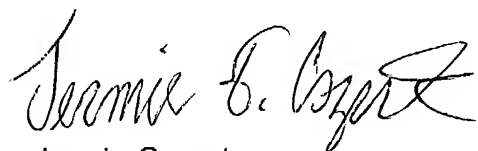
5. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on the attached PTO-892 are cited to show deforming sheet metal members into a tubular configuration.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 703-305-0126. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.
8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jermie Cozart  
Examiner  
Art Unit 3726

JC  
May 19, 2004